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Steven L. Highlander
Fulbright & Jaworski, LLP
600 Congress Avenue, Suite 2400
Austin, TX 78701

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OFFICE OF PETITIONS

In re Application of :
Williams et al. :
Application No. 09/782,953 : **DECISION ON PETITION**
Filed: February 13, 2001 :
Attorney Docket No. MYOG:036US/SLH :

This is a decision on the petition under 37 CFR 1.181, filed August 15, 2006, to withdraw the holding of abandonment, or in the alternative, under 37 CFR 1.137(b) to revive the application.

The above-identified application became abandoned as a result of the failure to file an Appeal Brief (and fee) within two (2) months of the Notice of Appeal filed on July 22, 2005. Accordingly, the appeal was dismissed. As no claim was allowed, the above-identified application became abandoned and a Notice of Abandonment was mailed on July 6, 2006.

Petitioners asserted that they filed a timely and proper response in the form of an Appeal Brief and a request for an extension of time for response within the first month on October 11, 2005 (certificate of mailing date October 6, 2005).

Upon a review of the record, it appears that petitioners submitted an Appeal Brief on September 22, 2005, and again on October 11, 2005 (accompanied by a one-month extension of time and fee). However, the application number in the heading of the transmittal forms identified Application No. "09/872,953" rather than the intended Application No. "09/782,953." The responses were located in the file of Application No. 09/872,953. A review of the correspondence indicates that the USPTO received an appeal brief on September 22, 2005, and again on October 11, 2005 (accompanied by a one-month extension of time and fee), but they were not matched with the file due to the identification of an incorrect application number.

Under current Office procedure, if a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition under 37 CFR 1.181 is **granted**. The Notice of Abandonment is hereby **withdrawn**. The \$250.00 fee for filing an appeal brief paid on September 22, 2005, will be transferred from Application No. 09/872,953 to Application No. 09/782,953. The \$120.00 extension of time fee is unnecessary because the Appeal Brief was timely filed on September 22, 2005. Therefore, \$120.00 fee mistakenly paid in Application No. 09/872,953, will be refunded to the Deposit Account.

The matter is being referred to the Technology Center 1653 for review of the Appeal Brief filed on September 22, 2005.

Telephone inquiries regarding this decision maybe directed to the undersigned at (571) 272-3211. All other questions concerning the status of the application or the examination process should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions